

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

TERESA BELLO-JONES,
Executive Officer, Bureau of Vocational
Nursing and Psychiatric Technicians, State of
California,

Petitioner,

v.

DANIEL I. ALAWOYA,

Psychiatric Technician License No. 34018,

Respondent.

Case No. PT-2007-2263

OAH No. L2008110603

ORDER ON EX PARTE PETITION FOR INTERIM SUSPENSION

On November 21, 2008, Teresa Bello-Jones (Petitioner), Executive Officer, Bureau of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs, State of California (Bureau), filed an Ex Parte Petition for Interim Suspension Order (Petition) pursuant to Business and Professions Code section 494, seeking to suspend, pending a full hearing on the merits, the psychiatric technician license issued to Respondent.

The matter regularly came before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California, on November 26, 2008. Nancy A. Kaiser, Deputy Attorney General, represented Petitioner. Respondent did not appear, although he received notice of the hearing.

Petitioner submitted the Petition and supporting documents, and the matter was submitted for decision.

FACTUAL FINDINGS

1. Petitioner filed the Petition in her official capacity.
2. On December 19, 2007, the Bureau issued Psychiatric Technician License Number PT 34018 to Respondent, which license expires on August 31, 2009.

3. On October 23, 2008, in the Superior Court, San Bernardino District, County of San Bernardino, State of California, in case number FSB801338, respondent was convicted, on his plea of guilty, of violating Penal Code section 288, subdivision (c)(2) (lewd act on dependent adult), a felony. The court suspended imposition of sentence and placed respondent on probation for 3 years on terms and conditions that included service of 295 days in county jail, with credit for 172 days, and registration as a sex offender.

4. The facts and circumstances underlying the conviction are that on January 29, 2008, while employed as a psychiatric technician at Patton State Hospital, respondent sexually abused a mentally incompetent patient of the facility.

5. The criminal conviction, on its face and in the existing circumstances, is substantially related to the qualifications, functions, and duties of a psychiatric technician.

CONCLUSIONS OF LAW

1. Petitioner has established that respondent suffered a criminal conviction substantially related to the qualifications, functions, and duties of a psychiatric technician, in violation of Business and Professions Code sections 490 and 4521, subdivision (f), and California Code of Regulations, title 13, section 2578, by reason of factual finding numbers 3, 4, and 5.

2. Petitioner has established that respondent engaged in sexual abuse of a patient in violation of the Business and Professions Code sections 726 and 4521, subdivisions (a) and (i), by reason of factual finding numbers 3 and 4.

3. There is a reasonable probability that petitioner will prevail in an action to permanently discipline respondent's license.

4. Permitting respondent to continue to engage in the duties and functions of a psychiatric technician will endanger the public health, safety, and welfare.

5. Serious injury would result to the public welfare unless this Order is issued before the matter can be heard pursuant to the notice required by Business and Professions Code section 494, subdivision (b).

6. The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to respondent in issuing the order.

7. Cause exists pursuant to Business and Professions Code section 494 to suspend respondent's psychiatric technician license pending a full hearing on the merits, by reason of factual finding numbers 1 through 5 and legal conclusion numbers 1 through 6.

ORDER

1. The Petition is granted.
2. Petitioner shall serve respondent with a copy of this Order and all documents supporting the Petition in accordance with Business and Professions Code section 494.
3. Psychiatric Technician License number 34018 issued to respondent Daniel Hesanni Alawoya is suspended on an interim basis in accordance with Business and Professions Code section 494.
4. During the time that this Interim Suspension Order is in effect, respondent is prohibited from engaging in the duties and functions of a psychiatric technician, which prohibition includes advertising or holding himself as available to practice his profession. Respondent is not to be present in any location or office in which his profession is practiced, except as a patient or as a visitor of a family member or friend. Respondent is to surrender to the Bureau for safekeeping any indicia of his licensure as a psychiatric technician, including his wallet card.
5. Pursuant to Business and Professions Code section 494, subdivision (c), a hearing on the petition is set for Tuesday, December 16, 2008, at 9:00 a.m. at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California.

IT IS SO ORDERED, this 26th day of November 2008.


Samuel D. Reyes
Administrative Law Judge
Office of Administrative Hearings

**BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
STATE OF CALIFORNIA**

In the Matter of the Accusation Filed Against:

CASE NO.: PT-2007-2263

DANIEL ILESANMI ALAWOYA
303 W. Merrill Avenue, Apt. 704
Rialto, CA 92376

**DEFAULT DECISION
AND ORDER**

Psychiatric Technician License No. PT 34018

Respondent

Daniel Ilesanmi Alawoya ("Respondent") was served Accusation No. PT-2007-2263; Statement to Respondent; Notice of Defense form; copies of Government Code sections 11507.5, 11507.6 and 11507.7; and Request for Discovery by both first class and certified mail on November 21, 2008 at his address of record as provided in sections 11503 and 11505 of the Government Code of the State of California.

Respondent failed to file a Notice of Defense within the time specified in Government Code section 11506.

The Bureau of Vocational Nursing and Psychiatric Technicians ("Bureau") has determined that Respondent has waived his rights to a hearing to contest the merits of the Accusation and that the Bureau will take action on the Accusation without a hearing, pursuant to Government Code section 11520.

The Bureau makes the following findings of fact:

FINDINGS OF FACT

1. Teresa Bello-Jones, J.D., M.S.N., R.N., made and filed the Accusation solely in her capacity as the Bureau's Executive Officer.

2. On December 19, 2007, the Bureau issued Psychiatric Technician License No. PT 34018 to Respondent. Said license will expire on August 31, 2009.

3. Pursuant to Business and Professions Code sections 101.1(b) and 150, the Department of Consumer Affairs has succeeded to and is vested with all duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of the Bureau and its

1 executive officer; that the department is under the control of the Director of Consumer Affairs.

2 4. Pursuant to Business and Professions Code section 4520, the Bureau may
3 discipline any licensed psychiatric technician for any reason provided in Article 3 of the Psychiatric
4 Technician Law.

5 5. Pursuant to Business and Professions Code section 118(b), the expiration of a
6 license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary action during the
7 period within which the license may be renewed, restored, reissued, or reinstated. Under Business
8 and Professions Code section 4545, the Bureau may renew an expired license at any time within four
9 (4) years after the expiration.

10 6. Respondent has subjected his license to discipline under Business and
11 Professions Code sections 490 and 4521(f), as defined by California Code of Regulations, title 16,
12 section 2578, on the grounds that Respondent was convicted of a crime substantially related to the
13 qualifications, functions, or duties of a licensed psychiatric technician, as described in Accusation
14 No. PT-2007-2263, a copy of which is attached as Exhibit "1" and incorporated by reference.

15 7. Respondent has subjected his license to discipline under Business and
16 Professions Code section 4521(i), in that Respondent abused and mistreated a mentally ill, dependent
17 adult, then under Respondent's care, when Respondent had sexual relations with the patient, as
18 described in Accusation No. PT-2007-2263.

19 8. Respondent has subjected his license to discipline under Business and
20 Professions Code sections 726 and 4521(a) for unprofessional conduct in that Respondent committed
21 sexual abuse, misconduct, or engaged in relations with a patient under his care, as described in
22 Accusation No. PT-2007-2263.

23 9. Respondent has subjected his license to discipline under Business and
24 Professions Code section 4521(a), in conjunction with California Code of Regulations, title 16,
25 section 2576.6(b)(3), on the grounds of unprofessional conduct, in that Respondent failed to maintain
26 professional boundaries by having sexual relations with a patient, as described in Accusation No. PT-
27 2007-2263.

28 10. Respondent has subjected his license to discipline under Business and

1 Professions Code section 4521(n), in that Respondent committed a dishonest act, in that when
2 interviewed as part of Patton State Hospital's police department's investigation of the incident,
3 Respondent denied that he had any sexual relations with the patient, when, in fact, Respondent did
4 engage in sexual relations with the patient, as described in Accusation No. PT-2007-2263.

5 11. Respondent has subjected his license to discipline under Business and
6 Professions Code section 4521(d), in that Respondent violated provisions of the Psychiatric
7 Technicians Law, as described in Accusation No. PT-2007-2263.

8 **DETERMINATION OF ISSUES**

9 Based on the foregoing Findings of Fact, Respondent has subjected his license to
10 discipline under Business and Professions Code sections 490, 726, 4521(a), 4521(d), 4521(f),
11 4521(i) and 4521(n), and California Code of Regulations, title 16, sections 2576.6(b)(3) and 2578.

12 **LOCATION OF RECORD**

13 The record on which this Default Decision is based is located at the Sacramento
14 office of the Bureau of Vocational Nursing and Psychiatric Technicians.

15 **ORDER**

16 **WHEREFORE**, the Bureau of Vocational Nursing and Psychiatric Technicians
17 makes the following order:

18 Psychiatric Technician License No. PT 34018 authorizing Respondent to act as a
19 psychiatric technician is hereby revoked.

20 Respondent shall have the right to petition for reinstatement of the aforesaid license
21 pursuant to the provision of section 4524(a)(1) of the Business and Professions Code.

22 Respondent shall not be deprived of making any further showing by way of
23 mitigation; however, such showing must be made directly to the Bureau of Vocational Nursing and
24 Psychiatric Technicians, 2535 Capitol Oaks Drive, Suite 205, Sacramento, California, 95833 prior to
25 the effective date of this Decision.

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1 This Default Decision shall become effective on January 14, 2009.

2 Dated and signed December 15, 2008

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6 PATRICIA HARRIS

7 Deputy Director, Board/Bureau Support
8 Department of Consumer Affairs
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27 Attachments: Exhibit "1", Accusation No. PT-2007-2263 and Declaration of Service
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Exhibit "1"
Accusation No. PT-2007-2263 and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 NANCY A. KAISER, State Bar No. 192083
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6 Attorneys for Complainant

7
8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF VOCATIONAL NURSING**
10 **AND PSYCHIATRIC TECHNICIANS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. PT-2007-2263

12 DANIEL ILESANMI ALAWOYA
303 W. Merrill Avenue, Apt. #704
13 Rialto, CA 92376
Psychiatric Technician License No. 34018

ACCUSATION

14 Respondent.
15

16 Complainant alleges:

17 **PARTIES**

18 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
19 Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational
20 Nursing and Psychiatric Technicians, Department of Consumer Affairs.

21 2. On or about December 19, 2007, the Bureau issued Psychiatric Technician
22 License Number 34018 to Daniel Ilesanmi Alawoya (Respondent). The Psychiatric Technician
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on August 31, 2009, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Director of Consumer Affairs
27 (Director), under the authority of the following laws. All section references are to the Business
28 and Professions Code unless otherwise indicated.

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2 (m) The commission of any act punishable as a sexually related crime, if
3 that act is substantially related to the duties and functions of the licensee.

4 (n) The commission of any act involving dishonesty, when that action is
5 substantially related to the duties and functions of the licensee.

6 8. Section 726 of the Code states, in part:

7 The commission of any act of sexual abuse, misconduct, or relations with
8 a patient, client, or customer constitutes unprofessional conduct and grounds for
9 disciplinary action for any person licensed under this division, under any initiative
10 act referred to in this division and under Chapter 17 (commencing with Section
11 9000) of Division 3.

12 9. Section 490 of the Code provides, in pertinent part, that the Board may
13 suspend or revoke a license when it finds that the licensee has been convicted of a crime
14 substantially related to the qualifications, functions, or duties of a licensed psychiatric technician.

15 10. Section 493 of the Code states:

16 Notwithstanding any other provision of law, in a proceeding conducted by
17 a board within the department pursuant to law to deny an application for a license
18 or to suspend or revoke a license or otherwise take disciplinary action against a
19 person who holds a license, upon the ground that the applicant or the licensee has
20 been convicted of a crime substantially related to the qualifications, functions, and
21 duties of the licensee in question, the record of conviction of the crime shall be
22 conclusive evidence of the fact that the conviction occurred, but only of that fact,
23 and the board may inquire into the circumstances surrounding the commission of
24 the crime in order to fix the degree of discipline or to determine if the conviction
25 is substantially related to the qualifications, functions, and duties of the licensee in
26 question.

27 11. California Code of Regulations, title 16, section 2576.6, states, in part:

28 (b) A licensed psychiatric technician shall adhere to standards of the
profession and shall incorporate ethical and behavioral standards of professional
practice which include but are not limited to the following:

(3) Maintaining professional boundaries with the patient/client;

(c) A violation of this section constitutes unprofessional conduct for
purposes of initiating disciplinary action.

12. California Code of Regulations, title 16, section 2578, states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed psychiatric technician if to a substantial degree it evidences present or potential unfitness of a licensed psychiatric technician to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of . . . [the Psychiatric Technicians Law.]

COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the Bureau may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

STATEMENT OF FACTS

Sexual Abuse of Patient

14. On or about January 29, 2008, between approximately 0200 and 0300, Respondent was on duty as a psychiatric technician at Patton State Hospital. Jackie T.¹ is a mentally ill patient, committed to Patton State Hospital under Penal Code section 1026 (not guilty by reason of insanity). Patton State Hospital is a state run, psychiatric hospital, located in the City of Patton, San Bernardino County, California.

15. Jackie T. walked toward the restroom from his bedroom when Respondent, who was seated in the hallway, called him over. As Jackie T. approached, Respondent, using both hands, choked Jackie T. and said, "If you scream, I will kill you." Respondent pushed Jackie T. into a room and told Jackie T. to perform oral copulation while he

1. The reports relating to this incident have inconsistent gender references for patient Jackie T. The DOI investigative report explains that Jackie T. was born a male and that Jackie T. has commenced but has not completely undergone the transgender process to become a female. For purposes of placement within Patton State Hospital, Jackie T. is considered a female; however, when Jackie T. is removed from the facility for medical treatment, the patient's gender is recognized as male.

1 stood and Jackie T. knelt on the floor. Jackie T., fearing for his safety, orally copulated
2 Respondent for approximately 10 to 15 minutes. Respondent did not ejaculate. Respondent then
3 ordered Jackie T. to lower his shorts. Jackie T. did so out of fear for his safety. Respondent
4 turned Jackie T. around and bent him over. Respondent inserted his penis into Jackie T.'s anus
5 and sodomized Jackie T. for approximately 15 to 40 minutes. Respondent ejaculated inside
6 Jackie T.'s anus and on Jackie T.'s back. Jackie T. then returned to his room. Later that night,
7 Jackie T. went to the restroom and placed his panties into a plastic bag. Jackie T. used a piece of
8 tissue to wipe the semen from his anal and back area. Jackie T. placed the tissue into a contact
9 lens container. Jackie T. took several showers and went to bed.

10 16. Jackie T.'s roommate reported the incident to staff on January 31, 2008.
11 On or about January 31, 2008, a Patton State Hospital police officer interviewed Jackie T. and
12 collected the panties and contact lens container. When interviewed by a hospital police officer,
13 Respondent denied having any sexual relations with Jackie T.

14 17. On or about March 25, 2008, Patton State Hospital received test results on
15 the panties and tissue paper. The test results provided that there was semen on the panties and on
16 the tissue paper contained in the contact lens container and that the DNA in the semen matched
17 Respondent's DNA. On or about March 25, 2008, Patton State Hospital terminated
18 Respondent's employment for having sexual relations with a patient.

19 **Criminal conviction for caretaker's lewd or lascivious acts with dependent adult**

20 18. On or about October 23, 2008, in a criminal proceeding entitled *People v.*
21 *Daniel I. Alawoya*, in the San Bernardino County Superior Court, San Bernardino District, Case
22 No. FSB 801338, Respondent was convicted on his plea of guilty of violating Penal Code section
23 288, subdivision (c)(2), a Caretaker's Lewd Act on Dependent Adult, a felony. Respondent was
24 sentenced to three years felony probation, fined, and required to register as a sex offender
25 pursuant to Penal Code section 290, the Sex Offender Registration Act. The terms of his
26 probation include serving 295 days in county jail, with 172 days of credit for time served and
27 unspecified time for conduct credit pursuant to Penal Code section 4019.

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FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

19. Respondent's license is subject to disciplinary action under Code sections 490 and 4521, subdivision (f), as defined by California Code of Regulations, title 16, section 2578, on the grounds that on or about October 23, 2008, Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a licensed psychiatric technician. Specifically, Respondent was convicted of committing a caretaker's lewd or lascivious act with a dependent adult in violation of Penal Code section 288, subdivision (c)(2), as set forth in paragraphs 18, above.

SECOND CAUSE FOR DISCIPLINE

(Patient Abuse)

20. Respondent's license is subject to disciplinary action under Code section 4521, subdivision (i), in that on or about January 29, 2008, Respondent abused and mistreated Jackie T., a mentally ill, dependent adult, then under Respondent's care, when Respondent had sexual relations with the patient, as set forth in paragraphs 14 through 18, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Sexual Abuse, Misconduct, or Relations with a Patient)

21. Respondent's license is subject to disciplinary action under Business and Professions Code sections 4521, subdivision (a) and 726 for unprofessional conduct in that he committed sexual abuse, misconduct, or engaged in relations with a patient under his care, as set forth in paragraphs 14 through 18, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional conduct -- Failure to Maintain Boundaries)

22. Respondent's license is subject to disciplinary action under section 4521, subdivision (a), in conjunction with California Code of Regulations, title 16, section 2576.6, subdivision (b)(3), on the grounds of unprofessional conduct, in that Respondent failed to maintain professional boundaries by having sexual relations with patient Jackie T., as set forth in paragraphs 14 through 18, above.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dishonest Acts)**

3 23. Respondent's license is subject to disciplinary action under Code section
4 4521, subdivision (n), in that Respondent committed a dishonest act, in that when interviewed as
5 part of Patton State Hospital's police department's investigation of the January 29, 2008 incident,
6 Respondent denied that he had any sexual relations with Jackie T., when, in fact, Respondent did
7 engage in sexual relations with Jackie T., as set forth in paragraphs 14 through 18, above.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Violations of Psychiatric Technicians Law)**

10 24. Respondent's license is subject to disciplinary action under Code section
11 4521, subdivision (d), in that Respondent violated provisions of the Psychiatric Technicians Law,
12 as set forth in paragraphs 14 through 18, above.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein
15 alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

16 A. Revoking or suspending Psychiatric Technician License Number 34018,
17 issued to Daniel Ilesanmi Alawoya;

18 B. Ordering Daniel Ilesanmi Alawoya to pay the Bureau the reasonable costs
19 of the investigation and enforcement of this case, pursuant to Business and Professions Code
20 section 125.3; and,

21 C. Taking such other and further action as deemed necessary and proper.

22 DATED: 11/19/08

23
24 *Nancy Kaiser DAG for*
25 TERESA BELLO-JONES, J.D., M.S.N., R.N.
26 Executive Officer
27 Bureau of Vocational Nursing and Psychiatric Technicians
28 Department of Consumer Affairs
State of California
Complainant